

FILED

10/15/19

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
Harrisonburg DivisionJULIA C. DUDLEY, CLERK  
BY: K. Dotson  
DEPUTY CLERK

IN THE MATTER OF THE SEARCH OF:

**Cellular Telephone Device Assigned  
Telephone Number 540-247-5799,  
A Samsung Galaxy J7 (32GB),  
Serial Number 358601090506141**Case No. 5:19mj00057**ORDER**

The Government has submitted an application and affidavit for a warrant to search and seize a Samsung Galaxy J7 cellular telephone, where ever it is located. The Government anticipates that the device may be equipped with biometric security features that require a fingerprint or thumbprint, or iris or facial recognition to unlock the computer. If more than forty-eight hours have passed since the computer was unlocked, this biometric feature will not unlock the device. The device then could only be unlocked by using a passcode.

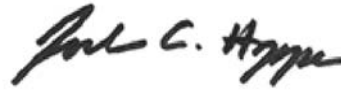
Having reviewed the application and affidavit, I find probable cause to search the and seize the device. The Government seeks authorization to use the biometric information, including fingerprint, thumbprint, iris, or face, of Gerald Drake to unlock the device.

I cannot compel a person to provide his or her passcode to unlock a phone. *See In the Matter of the Search Warrant Application for [redacted text]*, No. 17 M 85, 2017 WL 4563861, at \*5 (N.D. Ill. Sept. 18, 2017). On the other hand, biometric information is non-testimonial and may be compelled by the Government. *In the Matter of Search Warrant Application for [redacted text]*, 279 F. Supp. 3d 800 (N.D. Ill. 2017). Because the Government will have no ability to unlock a computer that is equipped with biometric security after forty-eight hours have passed, absent a passcode, I hereby authorize the Government to use the fingerprint or

thumbprint or iris or face of Gerald Drake in an attempt to unlock the device. The Government must select the person's finger and apply it to the sensor or hold the computer in front of the person's face or iris, and the agent may not require the person to undertake those acts himself or herself.

It is so ORDERED.

ENTERED: October 15, 2019

A handwritten signature in black ink, reading "Joel C. Hoppe". The signature is written in a cursive, flowing style.

Joel C. Hoppe  
United States Magistrate Judge